

### **REMARKS**

This Amendment is in response to the Office Action mailed March 23, 2007. With this response claims 1, 8, 15, 17, 27 and 31 are amended, claims 9, 10, 26 and 28-30 are cancelled and the remaining claims are unchanged. Reconsideration and withdrawal of the rejections are respectfully requested in view of the following remarks.

#### **Claim Amendments**

Claims 1, 17 and 31 are amended. Support for this amendment can be found at least in paragraph 7 of the specification and original claim 26. Claim 15 is amended to correct a typographical error that was noted by the Examiner. Thus, claim 15 has been amended in accordance with the Examiner's suggestion. Claim 27 is amended to correct a typographical error. No new matter is presented. Entry is respectfully requested.

#### **I. Rejections Under 35 U.S.C. §102**

In the Office Action the Examiner rejected claims 1-35 under 35 U.S.C. §102(e) as being anticipated by Wexler, U.S. Patent Publication 20030229809, (hereinafter "Wexler"). The Applicant has reviewed the cited portions of the Wexler document and must respectfully disagree.

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). The Applicant respectfully asserts that the rejection does not satisfy these requirements.

A. Independent claims 1, 17 and 31

Claim 1, as amended, requires “a security device ... configured to be inserted between said first and said second device while a network connection is active.” This feature of claim 1 is not disclosed in Wexler, nor has the Examiner pointed to a section in Wexler that discloses this feature. Therefore, it is respectfully submitted that Wexler does not disclose the features of claim 1 in its entirety, and thus claim 1 is believed allowable. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 17, as amended, requires “inserting a security device into said network while said network is operating....” The Examiner, in the rejection of claim 26, indicated that this feature is disclosed in paragraph 9 of Wexler. The cited section of Wexler discloses, in part, “Using a transparent proxy server eliminates the need to configure the network elements with the identity of the proxy server.” However, the cited section of Wexler does not disclose inserting the security device into the network while the network is operating. Therefore, it is respectfully submitted that Wexler does not teach this feature of claim 17 as amended. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 31, as amended, requires “inserting said security device while said data network is operating.” As discussed above with respect to claim 17 Wexler does not disclose inserting a security device when the network is operating. Therefore, it is respectfully submitted that claim 31 is allowable over Wexler. Furthermore, dependent claims 32-35 are believed allowable over Wexler as well at least by virtue of their dependency from claim 31. Reconsideration and withdrawal of the rejection are respectfully requested.

B. Independent Claim 8

Claim 8, as amended, requires “wherein said security device can be moved from location to location on said network without changing any settings.” The Examiner asserted this was disclosed in paragraph 56 of Wexler. However, the cited section of Wexler does not disclose the ability to move the security device on the network. It only discloses that the proxy server does not require any configuration for proper forwarding of the packets it receives and monitors.

There is no mention of moving the proxy server or even that the proxy server can be moved. Therefore, it is respectfully submitted that Wexler does not disclose this feature of claim 8 in its entirety. Reconsideration and withdrawal of the rejection are respectfully requested.

C. The Dependent Claims

Dependent claims 2-7, 11-16, 18-25, 27, and 32-35 depend from claims 1, 8, 17 and 31 respectively and therefore inherit the limitations of the independent claims. These claims are believed allowable at least based on their dependency either directly or indirectly from allowable independent claims. Additionally these claims add additional novel and non-obvious features. For example:

Claim 11 requires “a plurality of NIC cards all operating in said promiscuous mode.” The Examiner indicated that this was disclosed at paragraph 56 of Wexler. Specifically, the Examiner asserted that “all packets are processed under Promiscuous mode.” See Office Action page 6. Without admitting that the Examiner’s assertions are correct it is noted that the cited section does not disclose a plurality of NIC cards. Therefore, the Examiner has failed to show that Wexler discloses all of the features of claim 11 in its entirety. Thus claim 11 is believed allowable over Wexler. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 12 requires “wherein said security device has a zero network footprint while said NIC cards are in said promiscuous mode.” The Examiner asserted that this feature was disclosed in paragraph 48 of Wexler. However, the cited section does not disclose a security device having a plurality of NIC cards that are in a promiscuous mode. Thus, the Examiner has not shown that Wexler discloses all of the elements of claim 12 as arranged in the claim and required by M.P.E.P. §2131. Therefore, it is respectfully submitted that Wexler does not teach all of the features of claim 12. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 27, as amended, requires “removing said security device from said particular location while said network is operating.” The Examiner indicated that this feature was

disclosed by paragraph 16 of Wexler. The section of Wexler cited by the Examiner states, "... the transparency module is located on the same computer or switch as the mediation tool." There is no reference what so ever in this section of removing a device from the location, let alone removing a device while the network is operating. Therefore, it is respectfully submitted that Wexler does not disclose this feature of claim 27. Reconsideration and withdrawal of the rejection are respectfully requested.


## II. Conclusion

In view of the above, applicant believes the pending application is in condition for allowance. Reconsideration and allowance of the pending claims is respectfully requested.

Applicant believes a 3 month extension of time fee of \$510.00 is due with this response. However, if an additional fee is due, please charge our Deposit Account No. 50-3948, under Order No. 58895/P004US/10306553 from which the undersigned is authorized to draw.

Dated: September 21, 2007

Respectfully submitted,

By   
Thomas Kelton  
Registration No.: 54,214  
FULBRIGHT & JAWORSKI L.L.P.  
2200 Ross Avenue, Suite 2800  
Dallas, Texas 75201-2784  
(214) 855-7115  
(214) 855-8200 (Fax)  
Attorney for Applicant